

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Common Carrier Bureau
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Public Notice

Common Carrier Bureau Seeks Comment on
Maine Public Utilities Commission Petition for
Additional Authority to Implement Number
Conservation Measures

NSD File No. L-99-27
DA 99-638

CC DOCKET: 96-98

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COMMENTS OF THE PERSONAL
COMMUNICATIONS INDUSTRY ASSOCIATION

MAY 10 1999

Federal Communications Commission
Office of Secretary

The Personal Communications Industry Association ("PCIA"),¹ by its attorneys, hereby respectfully submits its comments on the Commission's *Public Notice* in the above-captioned proceeding.² PCIA, as a major wireless trade association, has consistently supported a strong federal role in supervising a unified, nationwide numbering system that ensures that all carriers are provided with an adequate supply of telephone numbers. Because grant of the authority

¹ PCIA is an international trade association established to represent the interests of the commercial and private mobile radio service communications industries and the fixed broadband wireless industry. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the PCS Alliance, the Site Owners and Managers Association, the Association of Wireless Communications Engineers and Technicians, the Private Systems Users Alliance, the Mobile Wireless Communications Alliance, and the Wireless Broadband Alliance. As an FCC-appointed frequency coordinator for the Industrial/Business Pool frequencies below 512 MHz, the 800 MHz and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of FCC licensees.

² *Public Notice: Common Carrier Bureau Seeks Comment on Maine Public Utilities Commission Petition for Additional Authority to Implement Number Conservation Measures* NSD File No. L-99-27, DA 99-638 (Apr. 1, 1999).

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requested in the Maine Petition will compromise this unified numbering scheme, and might discriminate against certain carriers, the Petition should be denied.

I. INTRODUCTION AND SUMMARY

On March 19, 1999, the Maine Public Utilities Commission ("MPUC" or the "Petitioner") filed a petition with the Commission requesting additional authority to implement a variety of numbering conservation methods. Specifically, the MPUC requested authority to: (1) employ certain number assignment standards, including enforcement of "fill rates," number reclamation, utilization surveys, and code rationing; (2) implement mandatory thousands block pooling; and (3) begin unassigned number porting ("UNP").³ Petitioner claims that such conservation measures are necessary due to the increasing demand for telephone numbers, which is leading to the rapid exhaust of the 207 Numbering Plan Area ("NPA").⁴

While the MPUC raises legitimate concerns about the costs of NPA exhaust, it is vital that the Commission continue to maintain federal control over the allocation of telephone numbers, thereby ensuring a unified system of numbering administration that does not discriminate against any class of carriers. Although some elements of Maine's proposal are similar to other requests recently filed with the Commission by state authorities,⁵ there are still

³ Maine Public Utilities Commission Petition for Additional Authority to Implement Number Conservation Measures (filed Mar. 19, 1999) ("*MPUC Petition*").

⁴ *MPUC Petition* at 3.

⁵ See, e.g., Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes (dated Feb. 17, 1999); New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures (dated Feb. 19, 1999).

significant differences among these plans that would require carriers to obtain and retain numbering resources in different ways in each of these states. Also, it is critical that the Commission ensure that proposed solutions to number shortages do not discriminate against any segment of the industry. For example, some of the measures proposed by the MPUC—including number pooling—would necessarily discriminate against certain carriers because they rely upon the ability to implement local number portability (“LNP”).

PCIA firmly believes that the Commission must act to protect and preserve an essential element of the North American Numbering Plan (“NANP”)—its nationwide consistency. If, however, the FCC does decide to give the MPUC the option to deviate from the established procedures for assigning numbering resources, then it must require that these changes be implemented pursuant to nationwide standards. In addition, no state should be permitted to unfairly hinder any carrier’s ability to obtain numbering resources. Thus, any number conservation program that relies on LNP must provide non-LNP capable carriers access, on a non-discriminatory basis, to a source of numbers.

II. WHILE THE MPUC RAISES A NUMBER OF VALID CONCERNS, THE COMMISSION SHOULD CONTINUE TO MAINTAIN FEDERAL CONTROL OVER A UNIFIED SYSTEM OF NUMBERING ADMINISTRATION IN THE UNITED STATES

The Maine Public Utilities Commission raises a legitimate issue regarding NPA exhaust in Maine. In particular, the MPUC has determined that even though the 207 NPA, which covers the entire State of Maine, is near exhaust, millions of unused numbers remain within the area code.⁶ The MPUC then asserts that this problem is caused by: (1) the lack of authority of the

⁶ *MPUC Petition* at 2.

North American Numbering Plan Administrator “to monitor and enforce compliance with the [Numbering] Guidelines;” and (2) the Guidelines’ inability to “limit carriers’ abilities to acquire and utilize numbers.”⁷ Finally, the MPUC points out that, “[t]he economical and societal costs of a new area code are significant, especially for small businesses and the average consumer.”⁸

While the problems cited by Maine are real, the Commission must take steps to ensure that the proposed number conservation measures do not compromise other, more important, aspects of the NANP. In particular, an individualized state-by-state approach will denigrate the unified nature of the national telecommunications infrastructure, contrary to the intent of Congress in amending the Communications Act in 1996.

In the 1996 Telecommunications Act, Congress gave the Commission “exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.”⁹ The Commission noted that Congress acted in this manner in recognition that “ensuring fair and impartial access to numbering resources is a critical component of encouraging a robustly competitive telecommunications market in the United States.”¹⁰ PCIA has consistently argued that the Commission should exercise this grant of jurisdiction because a national numbering policy is essential to the efficient provision of telecommunications service.¹¹ In fact,

⁷ *Id.* at 4.

⁸ *Id.* at 2.

⁹ 47 U.S.C. § 251(e)(1).

¹⁰ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392, 19508 (1996) (“*Local Competition Second Report and Order*”).

¹¹ *See, e.g.,* Comments of PCIA on Public Notice, *Common Carrier Bureau Seeks Comment on Massachusetts Department of Telecommunications and Energy Petition for Waiver to*
(Continued...)

a nationwide policy is particularly important to the wireless market because such carriers operate without regard to state boundaries.

The Commission, in its *Pennsylvania Order*, explained why national numbering policies are necessary:

A nationwide, uniform system of numbering is essential to the efficient delivery of telecommunications services in the United States ... Substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes for number conservation and area code relief. Such inconsistency could interfere with, or even prevent, the routing of calls in the United States. The lack of uniformity also could hamper the industry's efforts to forecast and plan properly for exhaust of the North American Numbering Plan, and therefore ultimately could accelerate unnecessarily the introduction of a new nationwide numbering plan. Introduction of a new plan would mean costly network upgrades to accommodate a new dialing scheme that would be confusing to consumers.¹²

(...Continued)

Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes, NSD File No. L-99-17, DA 99-460 (filed April 5, 1999); Comments of PCIA on Public Notice, *Common Carrier Bureau Seeks Comment on New York Department of Public Service Petition for Additional Authority to Implement Number Conservation Measures* NSD File No. L-99-21, DA 99-462 (filed April 5, 1999); Comments of PCIA on Public Notice, *Common Carrier Bureau Seeks Comment on Massachusetts Department of Telecommunications and Energy Request for Additional Authority to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes*, NSD File No. L-99-19, DA 99-461 (filed April 5, 1999); Comments of PCIA on *Public Notice: Common Carrier Bureau Seeks Comment On North American Numbering Council Letter Seeking Clarification of the Term 'Technology Neutral,'* DA 97-2234 (filed Oct. 29, 1997).

¹² Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, NSD File No. L-97-42, *Memorandum Opinion and Order, and Order on Reconsideration*, FCC 98-224, ¶ 21 (rel. Sept. 28, 1998) ("*Pennsylvania Order*").

Therefore, the Commission admonished all parties to “work together to bring about as quickly as possible national methods to conserve and promote efficient use of numbers *that do not undermine that uniform system of numbering.*”¹³

Against this background, Maine has proposed one conservation method— improved methodologies for collecting data on number usage—which, if implemented subject to national guidelines, would serve the public interest. PCIA, in its comments on the *NANC Report*, also has endorsed the implementation of a more accurate, more efficient, nationwide method of collecting numbering usage information. In addition, PCIA endorsed the nationwide implementation of other conservation measures, including: (1) Extended Local Calling Areas (“ELCAs”); (2) Inconsistent Rate Centers (“IRCs”); and (3) elimination of certain protected central office codes.¹⁴ PCIA supports these specific methods of managing numbering resources because they optimize the utilization of telephone numbers without discriminating against any particular segment of the telecommunications industry.

While PCIA supports the use of these number conservation methods, the Commission should not abandon its role as the Congressionally-sanctioned arbiter of the nationwide numbering system. Thus, in the event that the Commission allows individual states to act, it must develop some set of national standards or unifying elements so that carriers do not eventually face a myriad of different numbering rules, regulations, and standards. As noted in the *Pennsylvania Order*, such a Balkanization of the nation’s numbering policies will interfere

¹³ *Pennsylvania Order*, ¶ 21 (emphasis added).

¹⁴ See PCIA Comments on *Public Notice: Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures*, NSD File No. L-98-134 (filed Dec. 21, 1998).

with the routing of calls and will add to the cost of doing business for all carriers operating in different states.¹⁵

III. THE LNP-BASED CONSERVATION METHODS PROPOSED BY THE PETITIONER, IF PERMITTED, MUST BE IMPLEMENTED PURSUANT TO NATIONWIDE STANDARDS, AND NON-LNP CAPABLE CARRIERS MUST HAVE ALTERNATIVE SOURCES OF NUMBERS

As noted above, national standards for the allocation of numbering resources are essential to maintaining an efficient and competitively neutral telecommunications industry. Further, telephone numbers are one of the essential ingredients of a well-functioning telecommunications marketplace, without which no carrier can provide service to its customers. Full and fair access to telephone numbers is thus critical to the ability of carriers to satisfy consumers and to serve their customers' needs. This is particularly true in the wireless industry, where there is substantial continued demand for new telephone numbers, and new carriers must compete against incumbent providers with already large customer bases. Without non-discriminatory access to telephone numbers, wireless carriers will be handicapped in their ability to contract with new subscribers and service the needs of existing subscribers. Under such circumstances, wireless carriers will quickly feel the adverse economic effects of inadequate access to numbering resources and customers will lose a measure of competition within the marketplace.

The Commission has recognized the competitive importance of the unfettered availability of telephone numbers. Specifically, the *Pennsylvania Order* mandates that NPA relief plans must "facilitate entry into the telecommunications marketplace by making numbering resources

¹⁵ *Pennsylvania Order*, ¶ 21.

available on an efficient and timely basis to carriers.”¹⁶ The *Pennsylvania Order* is similarly direct when it comes to prohibiting discrimination against wireless carriers in the allocation of numbering resources by limiting the availability of new numbers to LNP-capable carriers: “[T]he use of number pooling and transparent overlays unduly disfavored wireless and non-[LNP] capable carriers because it did not provide adequate assurances that those carriers would have access to numbering resources.”¹⁷

Thus, the Commission has clearly stated that any numbering optimization measures must ensure that all carriers, regardless of the technology they use, have equal and unfettered access to the telephone numbers they need to meet the expanding needs of new and existing subscribers. Against this background, if the Commission chooses to implement an optimization measure that relies on LNP-based methods, it must ensure that non-LNP capable carriers have access to alternative sources of telephone numbers. A large number of carriers—both wireline and wireless—are not currently required to be LNP-capable, and may not ever be required to implement this capability.¹⁸ These carriers obviously must be able to obtain numbers on a comparable basis to other service providers.

¹⁶ *Pennsylvania Order*, ¶ 37; see also *Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, 10 FCC Rcd 4596, ¶ 19 (1995) (“The ready availability, and use, of numbering resources by communications services providers is essential if the public is to receive the communications services it wants and needs”); *Local Competition Second Report and Order*, ¶ 291 (“[F]ederal numbering guidelines [are] designed to ensure the fair and timely availability of numbering resources to all telecommunications carriers”).

¹⁷ *Pennsylvania Order*, ¶ 40.

¹⁸ Paging companies will not be required to implement LNP at any time and broadband CMRS carriers are not required to implement local number portability in the top 100 MSAs until November 24, 2002. *CTIA’s Petition for Forbearance from Commercial Mobile Radio Service Number Portability Obligations* (Memorandum Opinion and Order), WT Docket No. 98-226, CC (Continued...)

Even beyond these competitive concerns, however, PCIA has a number of practical concerns involving LNP-based approaches, including the thousands block pooling and unassigned number porting solutions suggested by Petitioner. Preliminarily, these LNP-based methods might not conserve as many telephone numbers as their proponents allege. As noted above, significant numbers of carriers are currently not LNP-capable. The number of LNP-exempt carriers is particularly great in the areas of the country where thousands block fill rates are uniformly low, such as rural areas. Therefore, LNP-based solutions cannot be used with any efficacy in these pockets of inefficient number usage.

Finally, as pointed out in the *NANC Report*,¹⁹ unassigned number porting has a number of specific practical disadvantages. First, UNP seems to encourage the “mining” of numbers, as one carrier can take another carrier’s desirable numbers without the other carrier’s consent. Second, UNP will punish those service providers that have efficiently managed their numbering resources, while those carriers that have not done so will be able to continue their mismanagement and still get telephone numbers, even in a jeopardy situation. Third, because the effectiveness of unassigned number porting is based directly on the number of service providers

(...Continued)

Docket No. 95-116 (Feb. 9, 1999).

In addition, LECs are only required to implement LNP upon a *bona fide* request from another carrier, and LECs “with fewer than 2 percent of the Nation’s subscriber lines” can petition a state commission to modify or suspend the number portability requirements. *Telephone Number Portability* (Third Report and Order), 13 FCC Rcd 16090, ¶ 17 & n.63 (1998) (quoting 47 U.S.C. § 251(f)(2)).

¹⁹ *Number Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Optimization Methods* (Oct. 21, 1998) (“*NANC Report*”) at 129-130.

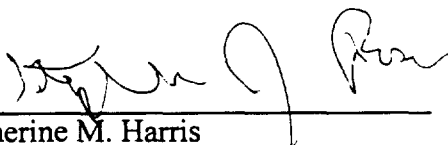
participating in the scheme, if only a limited number of providers are able to take part in any given area, this method will only have a minimal impact on number exhaust.

IV. CONCLUSION

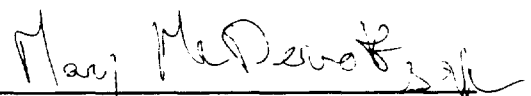
PCIA endorses the efforts to ensure the more efficient allocation of numbering resources within the North American Numbering Plan, with the goal of preventing premature and unnecessary NPA exhaust. Such conservation measures will help to ensure that all carriers have an adequate supply of telephone numbers, which will encourage competition in the telecommunications industry. In its efforts to optimize number utilization, however, the Commission must make sure that state plans to conserve numbers do not upset the unified structure of the NANP and that those measures are fair to all segments of the telecommunications industry.

Respectfully submitted,

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